

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:17-CV-147

M. PETER LEIFERT, THE NORTH
CAROLINA GREEN PARTY, AND THE
GREEN PARTY OF THE UNITED STATES,

Plaintiffs,

v.

KIM WESTBROOK STRACH in her official
capacity as Executive Director of the North
Carolina State Board of Elections,

Defendant,

JOINT MOTION TO STAY
CONSIDERATION OF
PLAINTIFFS' EMERGENCY
MOTION FOR PRELIMINARY
INJUNCTION (ECF NO. 49)

Plaintiffs and Defendant jointly move to stay consideration of Plaintiffs' Emergency Motion for Preliminary Injunction (ECF No. 49).

In support of this motion, the Parties state as follows:

1. Plaintiffs bring this suit pursuant to 42 U.S.C. § 1983 to challenge numerous statutes that comprise North Carolina's ballot access system. Plaintiffs allege that these statutes violate the First and Fourteenth Amendments of the United States Constitution.

2. Plaintiffs filed their Motion on March 8, 2018 in which they assert that the North Carolina Green Party filed its documentation for recognition as a "Political Party" in North Carolina pursuant to N.C. Gen. Stat. § 163A-950 (formerly N.C. Gen. Stat. § 163-96(a)(3)) with the North Carolina State Board of Elections and Ethics Enforcement ("State Board"), but the State Board has been without members to review and approve the request.

3. Plaintiffs seek an injunction directing the State Board to recognize the North Carolina Green Party as a “recognized political party” under North Carolina election laws, including by not limited to, inclusion on voter ballots for the 2018 elections.

4. A response to the Motion is due March 29, 2018, and Defendant intends on filing a response to the Motion.

5. On March 16, 2018, Governor Roy Cooper appointed eight (8) members to the State Board.

6. On March 21, 2018, the eight (8) members of the State Board met to be sworn in and to nominate two (2) individuals for the position of the ninth board member.

7. On March 21, 2018, Governor Roy Cooper appointed the ninth member of the State Board.

8. The full State Board is expected to meet the week of March 26th, 2018.

9. On the agenda for the next meeting of State Board is the recognition request of the North Carolina Green Party, which would resolve or otherwise moot the Motion submitted herein.

10. Plaintiffs are agreeable to withdraw their Motion upon State Board action.

11. Accordingly, the Parties jointly request that this Court stay the response deadline and consideration of the Motion until the State Board has held their next scheduled meeting on the week of March 26, 2018.

12. The Parties will report to this Court the results of the State Board’s meeting, and any other action that impacts the Motion or this Court’s consideration thereof.

13. The Parties agree that the response to the Motion be due twenty-one (21) days following the date of the Board's meeting on the week of March 26, 2018, (and at the latest April 20, 2018, which is twenty (21) days after March 30, 2018).

WHEREFORE, the Parties pray unto the Court for the following relief:

1. That the Court grant this Joint Motion of the Parties;
2. That the deadline for response to Plaintiffs' Motion (ECF No. 49) be set for April 20, 2018, at the latest;
3. That the Court enter such orders as it deems necessary;
4. That the Court enter such other and further relief as the Court deems just and proper.

This the 26th day of March 2018.

/s/ S. Mark Henkle
S. Mark Henkle, Esq.
Counsel for Plaintiffs
N.C. State Bar No.:49265
Martineau King, PLLC
P.O. Box 31188
Charlotte, NC 28231
(704) 247-8525
mhenkle@martineauking.com

/s/ Alan P. Woodruff
Alan P. Woodruff, Esq.
LEAD ATTORNEY
Counsel for Plaintiffs
Admitted Pro Hac Vice
3394 Laurel Lane SE
Southport, NC 28461
(910) 854-0329
alan.jd.ilm@gmail.com

JOSHUA H. STEIN
Attorney General

/s/ James Bernier, Jr.
James Bernier, Jr.
Special Deputy Attorney General
N.C. State Bar No. 45869
Email: jbernier@ncdoj.gov
N.C. Department of Justice
Post Office Box 629
Raleigh, NC 27602-0629
Telephone: (919)716-6900

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the clerk of Court using the CM/ECF system which will send notification of such to all counsel of record in this matter, including:

Alan P. Woodruff, Esq.
Counsel for Plaintiffs
3394 Laurel Lane SE
Southport, NC 28461
910-854-0329
alan.jd.ilm@gmail.com

S. Mark Henkle
MARTINEAU KING, PLLC
8701 Red Oak Blvd.
P.O. Box 31188
Charlotte, NC 28231
mhenkle@martineauking.com

This the 26th day of March 2018.

/s/ James Bernier, Jr.
James Bernier, Jr.
Special Deputy Attorney General